

AMENDED IN ASSEMBLY JUNE 14, 2006

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1729

Introduced by Senator Soto

February 24, 2006

An act to amend ~~Section~~ *Sections 22844, 22940, and 22944 of, to amend and renumber Section 22942 of, and to add Sections 22941, 22942, 22945, and 22946 to, the Government Code, relating to public employees' health benefits.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1729, as amended, Soto. Public employees: health benefits.

(1) The Public Employees' Medical and Hospital Care Act requires the Board of Administration of the Public Employees' Retirement System to approve health benefit plans for certain public employees and annuitants, and authorizes the board to contract with carriers offering health benefit plans. The act prohibits an employee, annuitant, or family member enrolled in a prescription drug plan under Part D of Medicare from enrolling in a board-approved health benefit plan, unless enrolled in an approved Medicare Advantage plan.

This bill would instead exempt from that prohibition an employee, annuitant, or family member enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.

(2) *That law permits an employer to elect to participate in the prefunding of health care coverage for annuitants. Under that law, if an employer elects to participate in the prefunding of health care coverage for annuitants, the Board of Administration of the Public*

Employees' Retirement System determines the contribution rate for that employer. That law requires the Board of Administration to notify each employer that provides retirement benefits through the Public Employees' Retirement System of that employer's contribution rate, regardless of whether that employer participates in the prefunding of health care coverage.

This bill would revise and recast those provisions to permit the Board of Administration of the Public Employees' Retirement System to authorize an employer to participate in the prefunding of health care coverage for annuitants. This bill would permit the Board of Administration to determine the contribution rate for an employer based on information provided by that employer, as specified. This bill would require, if the Board of Administration terminates the prefunding plan or an employer's participation in that plan, that the Board of Administration retain sufficient funds to pay for health care coverage for annuitants and administrative costs before paying any remaining assets to the employer.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22844 of the Government Code is
- 2 amended to read:
- 3 22844. (a) Employees, annuitants, and family members who
- 4 become eligible to enroll on or after January 1, 1985, for Part A
- 5 and Part B of Medicare may not be enrolled in a basic health
- 6 benefit plan. If the employee, annuitant, or family member is
- 7 enrolled in Part A and Part B of Medicare, he or she may enroll
- 8 in a Medicare health benefit plan.
- 9 (b) Employees, annuitants, and family members enrolled in a
- 10 prescription drug plan under Part D of Medicare may not be
- 11 enrolled in a board-approved health benefit plan. This
- 12 subdivision does not apply to an individual enrolled in a
- 13 board-approved or offered health benefit plan that provides a
- 14 prescription drug plan or qualified prescription drug coverage
- 15 under Part D of Medicare as part of its benefit design.
- 16 (c) This section does not apply to employees and family
- 17 members that are specifically excluded from enrollment in a
- 18 Medicare health benefit plan by federal law or regulation.

1 *SEC. 2. Section 22940 of the Government Code is amended to*
2 *read:*

3 22940. There is in the State Treasury the Annuitants' Health
4 Care Coverage Fund that is a trust fund and a retirement fund,
5 within the meaning of Section 17 of Article XVI of the California
6 Constitution, ~~that is.~~ *Notwithstanding Section 13340, all moneys*
7 *in the fund are continuously appropriated without regard to fiscal*
8 *years to the board for expenditure for the prefunding of health*
9 *care coverage for annuitants pursuant to this part, including*
10 *administrative costs. The board has sole and exclusive control*
11 *and power over the administration and investment of the*
12 *Annuitants' Health Care Coverage Fund and shall make*
13 *investments pursuant to Part 3 (commencing with Section*
14 *20000).*

15 *SEC. 3. Section 22941 is added to the Government Code, to*
16 *read:*

17 22941. *Each participating employer shall pay an amount,*
18 *determined by the board, for administrative costs of the*
19 *prefunding plan established by this article. The board shall*
20 *deposit in the State Treasury to the credit of the Annuitants'*
21 *Health Care Coverage Fund all amounts received by the board*
22 *for those administrative costs.*

23 *SEC. 4. Section 22942 of the Government Code is amended*
24 *and renumbered to read:*

25 ~~22942.~~

26 22943. *An employer authorized by the board may elect to*
27 *participate in the prefunding plan established by this article.*

28 *SEC. 5. Section 22942 is added to the Government Code, to*
29 *read:*

30 22942. *(a) For purposes of this article, the following*
31 *definitions shall apply:*

32 (1) "Annuitant" means any of the following:

33 (A) An annuitant described in Section 22760.

34 (B) A person who retires from employment with an employer
35 described in subparagraph (B) of paragraph (3) and who
36 receives postemployment health care benefits from the
37 prefunding plan provided by that employer.

38 (C) A surviving family member who receives postemployment
39 health care benefits as a beneficiary of a deceased person
40 described in subparagraph (B).

(2) “Employee” means an employee described in Section 22772. “Employee” also means an officer or employee of an employer described in subparagraph (B) of paragraph (3).

(3) “Employer” means either of the following:

(A) An employer described in Section 22773.

(B) An entity described in Section 22920 that has one or more employees and that entity provides postemployment health care benefits to annuitants.

(4) “Participating employer” means an employer that is authorized and has elected to participate in the prefunding plan.

(5) “Prefunding plan” means the Annuitants’ Health Care Coverage Fund that is a trust fund intended to meet the requirements of Section 115 of the Internal Revenue Code.

(b) The board may, in its discretion and upon terms and conditions set by the board, authorize an employer to participate in the prefunding plan established by this article. The governing body of a participating employer shall enter into a contract with the board, setting forth the terms and conditions of that employer’s participation in the prefunding plan.

SEC. 6. Section 22944 of the Government Code is amended to read:

22944. The board ~~shall annually~~ may determine the rate of contribution rate for the following fiscal year for each participating employer ~~providing benefits pursuant to this part, regardless of whether the employer participates pursuant to this article;~~ and shall annually transmit to each participating employer its contribution rate for the following fiscal year which would fully fund its ~~obligation~~ obligations under this article. ~~If the participating employer provides information that satisfies the standards and requirements established by the board, the board may rely on that information in determining the contribution rate of the participating employer. Nothing in this section shall require the board to perform a valuation in determining the contribution rate of the participating employer.~~

SEC. 7. Section 22945 is added to the Government Code, to read:

22945. (a) The board may terminate the participation of an employer in the prefunding plan if any of the following apply:

(1) An employer elects to cease to participate in the prefunding plan.

1 (2) *The board finds that the participating employer has failed*
2 *to satisfy the terms and conditions required by this article, by*
3 *board rules or regulations, or by the contract between the*
4 *governing body of that participating employer and the board.*

5 (3) *The board terminates the prefunding plan.*

6 (b) *If the Board terminates the participation of an employer in*
7 *the prefunding plan as described in paragraph (1) or (2) of*
8 *subdivision (a), the assets attributable to the contributions by*
9 *that employer shall remain in the prefunding plan, for the*
10 *continued payment of postemployment health care benefits*
11 *granted to current and future annuitants and the costs of*
12 *administration, pursuant to the terms and conditions of*
13 *participation established by the board and as agreed to by the*
14 *employer.*

15 (c) *If the board terminates the prefunding plan as described in*
16 *paragraph (3) of subdivision (a), the assets attributable to the*
17 *contributions by participating employers shall be paid in the*
18 *following order:*

19 (1) *The board shall retain for disbursement to annuitants an*
20 *amount sufficient to pay the postemployment health care benefits*
21 *for current and future annuitants.*

22 (2) *The board shall retain for payment an amount sufficient to*
23 *pay reasonable administrative costs.*

24 (3) *After the amounts described in paragraphs (1) and (2)*
25 *have been retained or disbursed, the board shall pay to each*
26 *employer participating in the prefunding plan on the date of*
27 *termination, a pro rata share of the remaining assets in the*
28 *prefunding plan. The board shall determine that pro rata share*
29 *based on the ratio that the participating employer's accumulated*
30 *contributions bear to the accumulated contributions of all*
31 *participating employers.*

32 SEC. 8. *Section 22946 is added to the Government Code, to*
33 *read:*

34 22946. *The board may adopt regulations that implement this*
35 *article. Those regulations shall not be subject to review and*
36 *approval of the Office of Administrative Law pursuant to Chapter*
37 *3.5 (commencing with Section 11340) of Part 1 of Division 3.*
38 *However, the board shall transmit those regulations to the Office*
39 *of Administrative Law for filing with the Secretary of State and*
40 *publication in the California Code of Regulations. Those*

- 1 *regulations shall become effective immediately upon filing with*
- 2 *the Secretary of State.*

O